

IN THE MATTER OF	:	BEFORE THE
<b>ATHOLTON SWIM CLUB, INC.</b>	:	HOWARD COUNTY
Petitioners	:	BOARD OF APPEALS
	:	HEARING EXAMINER
	:	BA Case No. BA 06-043C

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### **DECISION AND ORDER**

On January 8, 2007, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Atholton Swim Club, Inc., Petitioners, for a conditional use for the intended alterations and enlargement of a longstanding outdoor private community pool facility in an R-20 (Residential: Single) Zoning District, filed pursuant to Section 131.N.6 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioners provided certification that notice of the hearing was advertised and certified that the property was posted as required by the Howard County Code. I viewed the property as required by the Hearing Examiner Rules of Procedure.

John Andrews, Esquire, represented the Petitioners. John Schaffer, Alan Arnold, Brian Reed, William Carruth, Walter Arnold, John Murray, and Annemarie Habiger testified in support of the petition. Walter Larrimore testified in partial opposition to the petition.

### **FINDINGS OF FACT**

Based upon the evidence presented at the hearing, I find the following facts:

1. The subject property, officially known as 6741 Groveleigh Drive, is located in the 6<sup>th</sup> Election District east of the Seneca Drive intersection with Westleigh Drive (the “Property”). The Property is referenced on Tax Map 36, Grid 20, as Parcel 285. The Property entrance is 6731 Seneca Drive. Petitioner testified that the Property is the site of the existing Atholton Swim Club, a private community pool facility that has operated since the 1960s based upon Special Permits issued by the Board of Zoning Appeals at that time. The Petitioner proposes to significantly redevelop and renovate the facility. Except for the wading pool which would remain, the Petitioner proposes to replace all other structures. A new Z-shaped main pool would be constructed generally in the same location as the existing pool, but with a different orientation and with a diving area indicated on the south end. The Petitioner requests Conditional Use approval for the intended alterations and enlargements.

2. The Property is an irregularly-shaped parcel of approximately 6.4 acres. The access to the Property is somewhat unique, as it is a one-lane paved driveway starting directly off the east side of an L-intersection of the public roads Seneca Drive and Westleigh Drive. This driveway extends approximately 160 feet to the east, through an approximately 50-foot wide stub of the Property running between two adjoining residential lots. The Petitioners testified that the residential lots were developed after the development of the Swim Club. To the north side is a relatively small paved parking lot, protected by a metal gate that can be locked to prevent after-hour vehicle access. This parking lot extends to the south, perpendicular to the driveway. On the north side of the pavement is a short stub of gravel, presumably used for vehicle access to a lawn area to the north. To the east of the driveway and the pavement are

the main structures of the facility. Other accessory structures on the Property are play equipment located adjacent to the southeast corner of the parking lot; a one-story shed to the east of the play area which may be the pump house shown on the Concept Plan; and to the northeast of the main pool is another one-story shed. Two tennis courts, enclosed by a metal fence, are located approximately 110 feet northwest of the pavilion. A metal fence also encloses the perimeter of the main pool facility.

The facility has outdoor lighting for parking lot security lights, a few pole lights situated around the pool area, and lights mounted on the pavilion roof directed towards the pool and a field area to the northeast. Petitioner presented testimony that only one individual at the community meeting complained about glare from the existing outdoor lighting and that that issue was addressed with the Baltimore Gas and Electric Company. The Property has outdoor broadcast speakers near the wading pool, the pavilion and the main pool.

The improved western portion of the Property is relatively open, although there are some scattered deciduous trees and a few large evergreen trees. To the east of the existing parking lot is a low berm and a short line of evergreen trees which provide a moderate amount of screening. Generally, the area surrounding the main pool facilities is a lawn. The western portion of the Property is fairly moderately sloped.

3. Vicinal properties: All the adjacent properties to the west, north, and east are also zoned R-20. The predominate type of structure on these properties are two-story, frame, single-family detached dwellings.

4. Roads: Seneca Drive has approximately 26 feet of paving within an existing 50 foot wide right-of-way. The posted speed limit is 25 miles per hour. The estimated

sight distance from the existing driveway entrance is more than 500 feet to the west straight down Westleigh Drive and more than 500 feet to the north on Seneca Drive. Precise sight distance measurements may only be determined through a detailed sight distance analysis, but sight distance does not appear to be an issue in this location. There was no traffic volume data provided for Seneca Drive at the Westleigh Drive intersection.

5. All of the principal structures of the existing facility are centrally located towards the front of the irregularly-shaped Property, and consist of a main pool of an elongated isosceles trapezoid shape, an adjoining block bathhouse to the west of this pool, a smaller rectangular wading pool to the south of the bathhouse, and a frame pavilion and deck area adjoining the north side of the bathhouse. Except for the wading pool which would remain, the Petitioner proposes to replace all the other structures and presented testimony that the new structures would have no greater height than the existing structures. A new Z-shaped main pool would be constructed generally in the same location as the existing pool, but with a different orientation and with a diving area indicated on the south end. Based on the submitted plan, the edge of the new pool structure would be approximately 65.1 feet from the south side lot line, which is about 35 feet closer than the existing pool. To the east of the diving area of the new pool would be a triangular wood deck, described as a “sun-deck”, and wood trellis for shade over a portion of this wood deck. Another arbor is shown to the north of the wading pool. In the area to the northwest of the new pool, a new T-shaped bathhouse and pavilion structure would be constructed close to the parking lot. The Petition indicated that the bathhouse portion of this one-story structure would be

approximately 2,000 square feet and would contain changing rooms and related facilities, offices, and a small snack bar for on-site sales only. The Petition also indicated that attached to the rear of the bathhouse would be a new, approximately 2,000 square foot raised pavilion. A new sand volleyball court was stated as part of the original proposal and shown to the north of the pavilion on the smaller concept plan, but not on the revised Conditional Use plan dated January 8, 2007. Petitioner indicated that there would be no physical changes to the two existing tennis courts located to the northeast.

Petitioner proposes to enlarge the existing paved parking lot with new paving to the east, south, and west sides of this parking lot. It is stated in the petition that there would be "...53 spaces, with an additional 2 dedicated handicap spaces adjacent to the pool entrance walkway." The Petitioner also proposes to use a lawn area to the north of the paved parking lot for overflow parking, and estimates that this overflow parking area would add approximately 35 more parking spaces. The Petitioner indicated, as shown on the revised Conditional Use plan, that the enlarged paved parking lot would be 20 feet from the south property line. The Petitioner indicated in testimony that the pump house to support the main and wading pools would be located in the approximate location indicated on the revised Conditional Use plan to the southeast of the new pool, a distance of approximately 65 feet from the property line. Petitioner testified that the pumps would be in a fairly soundproofed building and that the volume of sound expected to be heard from the pump house would be negligible. Petitioner proposes to widen the existing driveway to match the width of Westleigh Drive but testified that it would be content keeping the driveway in its

existing configuration. Outdoor lighting for the facility would be redone in several ways. There would be six fixtures 20 feet high around the pools, to illuminate the pools and decking, which would be on dusk/dawn timers and used during the pool season. In the vicinity of the main building there would be approximately six to eight wall mounted fixtures, to illuminate the walkways and general grounds, which would be switched units used only during operating hours. Four pole mounted fixtures 20 feet high would illuminate the parking lot at night during the pool season and during the off-season. The locations for the fixtures are indicated on Petitioner's revised Conditional Use plan. Petitioner testified that the pool will also have switched underwater lights to meet code. Petitioner testified that no lighting is proposed for the tennis courts. The Petitioner notes that all proposed lighting will be "...properly shielded" to minimize the effect of light glare at neighboring residential properties. Information on the exact style of the lighting fixtures and the locations for the fixtures was provided as exhibits at the hearing.

6. Water and Sewer Service: The Property is currently served by public water facilities, but with a private septic system. Petitioner testified that the revised facility will be served by both public water and public sewer.

7. General Plan: The Property is designated Residential Areas on the Policies Map 2000-2020 of the 2000 General Plan. Most of Seneca Drive is depicted as a Minor Collector on the Transportation Map 2000-2020 of the 2000 General Plan, but the portion in front of the Property is designated a local road.

8. The Petitioners introduced a revised Conditional Use Site Plan and Petitioner Response to Staff Report; both dated January 8, 2007. (Exhibit 1 and 2).

9. The Petitioners also introduced Petitioner Landscaping and Light Detail Plan (Exhibits 3) dated January 8, 2007 and Exterior Building Elevations drawings (Exhibits 4) dated January 4, 2007.

10. Other Testimony. Petitioner testified that effects such as noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions would be no greater at the subject site than it would generally be at other neighborhood pools in Howard County. Petitioner stated that it would continue to limit the membership to 275 family memberships and limit the use to the period starting 10 days Prior to Memorial Day to two weeks after Labor Day. Petitioner also pointed out that the Conditional Use Site plan has been revised to shown a minimum of 20' from any property line. Petitioner noted that in addition to the existing buffer planting that already exists along the property lines, 32 evergreen trees with a height of between 6 feet and 9 feet would be added to buffer the parking area from adjacent residential lots and that the conditional use site plan has been revised to show at least a 50' setback to any existing or proposed building. Petitioner testified that it proposes to provide 75% of the required parking as paved parking, with an additional 40% of the required parking on grass, but indicated its willingness to pave an additional area currently shown as grass parking to meet any minimum paved parking requirement. The Petitioner indicated its intent to remove some mature growth deciduous trees that are located in the area where the parking lot will be expanded and substitute them with shorter buffer evergreen tree landscaping. Petitioner also indicated that the Site plan has been revised to show the number and location of light fixtures, that the lights would be located as far from the property lines as possible, and that the lights would be shielded

and oriented downward as shown on the Light Detail Plan. Petitioner noted that the proposed location of the refuse container would be as shown on the revised Conditional Use Site plan, and that a three-sided 6 foot high sight tight wood fence would be constructed to screen the container. Petitioner testified that, over the years, the Club has conducted activities that were not specifically mentioned in the prior special exception approvals, including social functions and parties for outside groups conducted outside the normal hours of operation. Petitioner did not claim that these activities are bonified athletic or recreational activities but noted that using an informal survey, it determined that other local community pools also hosted such activities, including hosting pool parties for local schools, community organizations and club activities and donating pool facilities for occasional charity, non-profit and community social events and asserted that such activities are commonly associated with community pools. Petitioner also presented evidence that using loudspeakers to electronically amplify sound for sporting, amusement and entertainment events are commonly associated with community pools in the Columbia area.

11. Supporting Testimony. Those in support of the plan focused on the benefit that the community pool has brought to the neighborhood and the vicinal properties and the need for the facilities to be updated. In addition, witnesses testifies that the social functions and parties conducted for outside groups at the facility are considered very positive activities within the community.

12. Opposition Testimony. While the individual in opposition in this case expressed general support for the Petitioner's plan, he did express concerns about the potential impact of noise from the Petitioners' allowance of after hours activities and late night



use of the facility and the volume of noise this use generated. He testified that he only considered the noise that occurred after 9:30 p.m. to be bothersome. He stated that the level of noise that occurred prior to 9:30 p.m. was not a particular problem. In addition to the late night noise, this witness expressed concern about the Petitioner's stated intent to remove some mature growth deciduous trees that buffered his property and substitute them with shorter buffer evergreen tree landscaping. He indicated that his concern was due to the close proximity of his property to where it is proposed the parking area would be extended. The witness admitted that as a bonded member of the Swim Club, he was generally in support of the proposal.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, I conclude as follows:

#### **I. General Criteria for Conditional Uses (Section 131.B).**

A. Harmony with the General Plan Land Uses: The Howard County General Plan designates the area in which the Property is located as "Residential: Single."

Community pools as outdoor athletic facilities are commonly found in residential areas and are conditionally considered compatible with residential land uses. In addition, the 6.4 acre property seemed more that adequate for the use as the site of community swimming pool with limited membership. All those who testified defend having a community pool of this size in this residential community. From the evidence presented, and having considered the nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site, it does not appear that a community pool is inappropriate in this location. I, therefore, find that the proposed conditional use plan will be in harmony with the land

uses and policies indicated in the Howard County General Plan for the R-20 district in which it is located.

B. Adverse Effect: Any community swimming pool can generate certain physical conditions that may cause some adverse effects to neighboring properties. Thus, the question in the matter before me is not whether the proposed community swimming pool has adverse effects in the R-20 zone, but whether those adverse effects are greater at the proposed site than they would be generally elsewhere within R-20 zones.

1. Impact of Adverse effects. The proposal consists of expanding the facilities at an existing community swimming pool and the activities to be conducted thereon. Evidence was presented that indicated that the activities that would be conducted on the premises would be the same as those currently being conducted on the premises. There was no evidence presented that noise, dust, fumes odors, lighting, vibrations, hazards or other physical conditions would exist beyond those inherently associated with a community swimming pool in an R-20 zoning district. As stated above, while testimony was received that indicated that noise from the subject property was sometimes a problem, that testimony did not indicate that the level of the noise that occurred was beyond those inherently associated with community swimming pools. In addition, Petitioner indicated that a complaint had been received about lighting glare. However, there was no evidence presented that would suggest that the problem was beyond those inherently associated with the evening use of a community swimming pool. It should also be noted, that the one lighting problem that was noted seems to have been addressed in an appropriate and timely fashion.

2. Location, Nature and Height of Structures and Extent of Landscaping. Petitioner presented testimony and elevation drawings that indicated that the height of the structures will be low and of a style and size appropriate for use in a residential zone and will comply with the setback requirements. Detail drawings were also presented of the type of fencing that would be used. There has been no evidence presented that the location, nature and height of structures, walls and fences, or the nature and extent of the landscaping on the site will be such that the use will hinder or discourage the development and use of adjacent land and structures more at the subject site than it would generally in an R-20 zoning district.

3. Parking and Drives. The Petitioner testifies that it has been using the existing drive for over thirty years with no significant problems. In order to continue the use of the driveway in its current configuration, the Petitioner should consider requesting an extension of its Special Permits.

The Petitioner agreed that the newly constructed paved off-street parking will be in accordance with Section 133 of the Zoning Regulations and testifies that the parking area will be approximately 160 feet from the public road, and through the use of the existing scattered deciduous trees, a few large existing evergreen trees and proposed new evergreens, will be screened from public roads and residential uses to minimize adverse impacts on adjacent properties. The supporting material submitted with Petitioner's Conditional Use plan sustains its contention that the number of parking spaces proposed will be in accordance with Health Department Codes considering its estimated bather load of 481 persons. However, Petitioner has proposed and requested approval for providing 40% of the required parking spaces as "on grass parking."

Petitioners request to provide grass parking for a portion of the required Section 133 parking can not be approved by this writer. The design of aisle widths, stall lengths and widths, entrance widths, turning radii, flow patterns, paving, etc., must conform with the standards set forth for off-street parking facilities in the Howard County Design Manual.

Petitioner's Conditional Use plan shows that the placement for the trash dumpster in the southeast corner of the paved parking lot surrounded on three sides by a screen fence and located near an existing 10 foot board fence will screen the refuse container from public view and minimize any adverse impact on adjacent properties. Consequently, I find that the parking areas in the proposed conditional use plan is of an adequate size for the particular use and will be screened from public roads and residential uses and that the refuse area will be located and screened from public roads and residential uses such that they minimize any adverse impacts on adjacent properties as required by Section 131.B.2.c.

4. Safe Access. The current entrance driveway was constructed in the spring of 1963 in accordance with the Special Exception BZA 421-C approved on January 9, 1963. The testimony of Petitioner indicates that the ingress and egress drive has provided safe access with adequate sight distance for over 40 years. No evidence has been presented to indicate that conditions have changed or that other circumstances exist that would alter this fact. Therefore, I find that the current entrance driveway should continue to provide safe access to the property.

The preponderance of the evidence placed before me sufficiently demonstrates that no adverse effects unique or different than those ordinarily associated with a community

pool exist with this proposal. Therefore, based on the evidence presented and on the longstanding use of the property as a community pool, I find that the proposed use of the property as a community pool at the proposed location will not have an adverse effect on vicinal properties above and beyond those ordinarily associated with such uses in the R-20 district..

## **II. Specific Criteria for Athletic Facilities, Outdoors (Section 131.N.6).**

1. Section 131.N.6.a.is not applicable to this facility.
2. Section 131.N.6.b allows the Hearing Authority to approve accessory athletic and/or recreational uses to the principal use. In this petition, the accessory uses requested include the use of the facilities for swimming lessons, swim team training and swimming meets, the requested year-round, daylight use of the existing tennis courts, the adult-use of the pool facilities during school days, and the use of the facilities for social functions. Of the accessory use items noted above, Petitioner has presented testimony that other community pools in and around Columbia permit these types of activities. In the absence of evidence to the contrary, I find that it is a valid interpretation of this criteria to allow swimming lessons, swim team training and swimming meets and the requested year-round, daylight use of the existing tennis courts as accessory athletic uses. Regarding the request that Petitioner be allowed to use and donate the facilities for social functions, since the term recreation includes leisure, fun and entertainment activities, I find that this too is a valid interpretation of this criterion and can be approved. However, given the proximity of the adjoining residential uses and the complaints about after-hour noise, I believe it is necessary and appropriate to limit the number and end time for social functions at the facility.

There appears to be no similar issue with the requests concerning the adult-use of the pool facilities during school days because this is clearly associated with athletic and recreational uses. I conclude that this activity will not change the use in any substantial way. Therefore, I find that the proposed uses are such that they will be in harmony with the land uses and policies indicated in the General Plan for the district, in accordance with Section 131.B.1.a.

3. Section 131.N.6.c. provides that for outdoor athletic facilities, buildings, parking areas, and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways. It further provides that this buffer area shall not be available for athletic or recreational activities. Section 131.N.6.c permits the Hearing Authority to reduce this setback, if the petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring residential properties. The Petitioner proposes to reduce the 50 foot buffer for the parking lot by 60% to 20 feet, has submitted a detailed landscaping plan showing the location and type of landscaping that would be provided, and has agreed that if required, the landscaping would be combined with a solid 6 foot fence. The Petitioner's request to provide only landscaping screening would not satisfy Section 131.N.6.c such as to justify the reduction below the required width. Accordingly, the request for landscape only screening can not be approved by this writer.

4. Section 131.N.6.d. requires that adequate landscaping or other acceptable forms of buffering will be provided to screen outdoor uses from residential properties. The

Petitioner's revised Conditional Use plan provides adequate additional evergreen landscaping to buffer outdoor uses from residential properties. Therefore, I find that the petition complies with Section 131.N.6.d.

5. Section 131.N.6.e. requires reasonable standards for hours of operation. The hours of operation proposed by the Petitioner, starting times of 6:00 a.m. on weekdays and 7:00 a.m. on weekends<sup>1</sup> and closing times of 9:30 p.m. on weekdays and 10:00 p.m. on weekends and holidays seem reasonable based upon Petitioner's testimony and the comments of residents living in adjoining residential properties.

Section 131.N.6.e. also requires that "...a detailed lighting plan shall be proposed by the petitioner." The Petitioner's Conditional Use plan provides an explanation of the general nature of the intended lighting, a plan showing the proposed light locations, and detailed information on the light fixtures themselves. Therefore, I find that the petition complies with of Section 131.N.6.e. concerning reasonable standards for hours of operation and the submission of a detailed lighting plan.

6. In its information related to the issue of the outdoor public address system/outdoor sound amplification, the Petitioner states that it is in compliance with the Howard County ordinance concerning noise and proposes to limit the use of electronically amplified sound to the hours of 8:00 a.m. to 8:00 p.m. However, the Section 131.N.6.f. criteria does not merely require that outdoor sound amplification must comply with a specific noise ordinance, which is an objective evaluation, but instead states that outdoor sound amplification will only be permitted "...if it will not constitute a nuisance for residential properties in the vicinity", which is a much more subjective

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<sup>1</sup> The term weekdays in this writing is intended to mean Sunday through Thursday and the term weekends is intended to mean Friday and Saturday.

evaluation. However, based upon the testimony of one near-by resident, excessive outdoor sound amplification has been a problem in the past. Therefore, by a preponderance of the evidence provided, I find that considering the conditions and limits proposes by Petitioner, outdoor sound amplification will not constitute a nuisance for residential properties in the vicinity

### **ORDER**

Based upon the foregoing, it is this    day of \_\_\_\_\_ 2007, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of ATHOLTON SWIM CLUB, INC., Petitioners, for a conditional use of the property as an outdoor community pool facility in an R-20 (Residential: Single) Zoning District is hereby **GRANTED**;

**Provided, however**, that the conditional use will apply only to the uses and structures as described in the petition and conditional use plan submitted and not to any other activities, uses, structures, or additions on the Property, and subject to the following conditions:

1. That the proposed facilities shall be in accordance with the Conditional Use Site plan dated January 8, 2007.
2. That the membership of this private club be limited to 275 family memberships.
3. That the pool facilities shall not open until ten (10) days prior to Memorial Day and shall terminate two (2) weeks after Labor Day.
4. That the normal hours of operations shall be as follows:

Opening Hour..... no earlier than 6:00 AM

Closing Hour..... no later than 9:30 PM

Subject to the following beginning time limitations:

- Adult lap swimming .....no earlier than 6:00 AM
- Swim lessons .....no earlier than 7:00 AM
- Swim team practice .....no earlier than 8:00 AM



- Open pool hours for general membership use..no earlier than 8:00 AM
- Swim meets .....no earlier than 8:00 AM

That the normal hours of operations for the pool facilities may be modified to an Opening Hour of no earlier than 7:00 AM on Saturdays, Sundays and Holidays and Closing Hour of not later than 10:00 PM on Fridays, Saturdays and Holidays

5. That proper safety precautions be made in connection with the use of the swimming pool, including a qualified guard who shall be on duty at the pool during the hours in which the pool is authorized to be open.
6. That normal hours of operations of other outdoor activity shall be as follows:  
Beginning Hour.....no earlier than 7:00 AM  
Closing Hour.....no later than 10:00 PM  
The tennis courts may be used year round when the weather permits.
7. That with the appropriate license(s), the Petitioner is permitted the commercial sale of beverage, including alcoholic beverages, and food items limited to sandwiches, candy and similar confections intended to be consumed on the premises.
8. The Petitioner is specifically allowed to host pool parties for local schools, community organizations and club activities.
9. The Petitioner may permit four (4) after-hours affairs annually, whereby attendees shall be allowed to remain on the premises beyond the normal closing hour, provided that proper precautions be made for the safety of attendees and the prevention of any condition which will constitute a nuisance for residential properties in the vicinity. Provided further that this permit shall not be construed to permit after hours consumption of alcoholic beverages or permit after hours use of the pool.
10. The Petitioner is allowed to donate the premises for up to two (2) charity, non-profit and community social functions. Provided, however, that this permit shall be contingent upon Petitioner insuring that the operation of the premises during these occasions is in accordance with the herein stated limitations regarding safety, normal hours of operations, sale and consumption of beverage and food items, outside lighting, and outdoor sound amplification.
11. That between the hours of 8:00AM and 8:00PM, Petitioner is permitted to use an amplified outdoor public address system for general announcements, swim meet announcements and for entertainment purposes, and may use an electric starting horn during swim meet events. Provided, however, that this permit shall be contingent upon Petitioner receiving approval from the Department of Planning and Zoning of a detailed outdoor sound amplification plan, consisting of the type/wattage of the system; the type, number, and locational direction of speakers;

the estimated sound levels for the system hours of use and the maximum noise level at the property lines.

12. That off-street parking shall be constructed in accordance with Section 133 of the Zoning Regulations. The off-street parking shall be completed prior to the opening of the replacement pool.
13. That no buildings, parking areas, and outdoor activity areas be less than 20 feet from adjoining residentially-zoned properties other than public road right-of-ways.
14. That this permit shall be contingent upon the granting of approval by the Department of Planning and Zoning of a detailed plan for screening any portions of the parking area or outdoor activity areas less than 50 feet from adjoining residentially-zoned properties, without the necessity of resubmission for further hearing.
15. That the remainder of the property be fenced and screened in accordance with the Conditional Use Site Plan dated January 8, 2007 and that the refuse container be located and screened from the surrounding properties such that no dust, fumes or odor be detectable from the property line.
16. All outside lighting shall be located in accordance with the Conditional Use Site plan dated January 8, 2007, shall be of a type and style as shown on the Lighting Detail submitted January 8, 2007, and shall be directed downward and shielded.
17. That this permit shall be contingent upon the granting of approval by the Department of Health of Howard County.
18. That Petitioner complies with other applicable regulations.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

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Ernest Stokes, Esq, LC

Date Mailed: \_\_\_\_\_

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.